THE HONOURABLE SRI JUSTICE V. ESWARAIAH

WRIT PETITION No.22166 OF 1995

DATED: 07-11-2006

BETWEEN

M/s. Babul Prakash Narayan & Co.,
2-1-77/1, Tobacco Bazar, Secunderabad
and another.

...PETITIONERS

AND

Sri Madanlal, S/o. Sriram,
R/o. 14-7-369, Begum Bazar,
Hyderabad and others.

...RESPONDENTS

ORDER:

This writ petition has been filed questioning the common order dated 11.08.1995 passed in M.P.Nos.33, 34 and 35 of 1993 on the file of the Additional Industrial Tribunal – cum – Additional Labour Court, Hyderabad.

Petitioner is the second respondent in M.P.Nos.33 and34 of 1993 filed by the first respondent herein on the file of the Additional Industrial Tribunal – cum – Additional Labour Court, Hyderabad, and petitioner is not a party to M.P.No.35 of 1995.

The first respondent was an employee of the petitioner herein and he worked for the petitioner and other two firms, sister concerns of the petitioner, and hence, he is a workman within the meaning of Section 2(s) of the Industrial Disputes Act.

The first respondent filed aforesaid two miscellaneous petitions

claiming Rs.18,653/- and Rs.33,702/- respectively towards the differential wages payable to him stating that he is workman in the industry of the petitioner herein, which is an establishment within the meaning of Section 2(j) of the Act. The said petitions filed under Section 33-C(2) of the Act have been enquired and held that the applications are maintainable and the petitioner therein is also entitled to file three petitions against all the three firms and accordingly notice served by the claimant against the petitioner herein is proper service upon the three firms. Accordingly the claim of the claimant in M.P.Nos.33 of 1995 was allowed directing the writ-petitioner to pay an amount of Rs.4,774/- towards the wages under Section 30 of the Andhra Pradesh Shops and Establishments Act and also allowed M.P.No.34 of 1993 for a sum of Rs.23,702/- and M.P.No.35 of 1993 was allowed for a sum of Rs.33,006/- towards the unpaid wages for the from 28.01.1979 to 03.02.1984, as the writ-petitioner failed to prove that the said amount was paid. It is stated that the writ-petitioner represents his sister concerns – the sole respondent in M.P.No.35 of 1993 and therefore, accordingly the Labour Court held that the petitioner therein is entitled to be paid the amount of Rs.33,006/- within one month failing which the amount caries interest at 12% per annum by order dated 11.08.1995.

As against the said orders this writ petition has been filed and at the time of admitting the writ petition this Court granted stay subject to the condition that the petitioner deposits 50% of the amount.

It is stated that 50% amount was deposited and thereafter at the time of filing an application to vacate the stay another sum of Rs.10,000/- was also deposited.

Learned counsel for the petitioner submits that the first respondent is claiming double amounts from two firms i.e. from the petitioner as well as sister concerns and further stated that the first respondent has not furnished material particulars with regard to the claim of wages and the Labour Court erroneously allowed the claim of the claimant on the ground that the

petitioner and sister concerns have not been able to prove the payment of the said amount.

When the workman has claimed non-payment of wages by furnishing notice as required under law and in the absence of the employer furnishing particulars of payment, I do not see any infirmity legal or otherwise in deriving the said unpaid wages as awarded by the Labour Court. However, even in the writ petition also, the petitioner failed to establish that there was double claim.

Having regard to the facts and circumstances of the case,
I do not see any infirmity legal or otherwise in the order passed by the Labour Court. The writ petition is accordingly dismissed. There shall be no order as to costs.

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V. ESWARAIAH, J

November 7, 2006
DSK